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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Douglas E. Crystal

Serial No. 78166404

Warren A. Sklar of Renner, Otto, Boisselle & Sklar for
Douglas E. Crystal.

Steven R. Berk, Trademark Examining Attorney, Law Office
102 (Thomas Shaw, Managing Attorney).

Before Hanak, Chapman and Drost, Administrative Trademark
Judges.

Opinion by Hanak, Administrative Trademark Judge:

Douglas E. Crystal (applicant) seeks to register in
typed drawing form THE CLASSIFIED CHANNEL for "television
broadcasting services, advertising services, Internet
advertising services, product ordering services, telephone
ordering services, telephone call center services,
employment center services, employment services, auction
services, legal advertising services, musical services."

The intent-to-use application was filed on September 20, 2002.

The Examining Attorney refused registration on two grounds. First, citing Section 2(e)(1) of the Trademark Act, the Examining Attorney contends that applicant's mark is merely descriptive of applicant's services. Second, citing TMEP Section 1301.05, the Examining Attorney contends that applicant's recitation of services is unacceptable because it is indefinite.

When the refusal to register was made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant did not request an oral hearing.

We will consider first the refusal on the basis that applicant's mark is purportedly merely descriptive of applicant's services. A mark is merely descriptive pursuant to Section 2(e)(1) of the Trademark Act if it immediately conveys information about a significant quality or characteristic of the relevant goods or services. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); In re Bed & Breakfast Registry, 791 F.2d 157, 229 USPQ 818, 819 (Fed. Cir. 1986). Of course, it need hardly be said that the mere descriptiveness of a mark is judged not in the abstract, but rather is judged in relationship to the

goods or services for which the mark is sought to be registered. In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 216 (CCPA 1978). Finally, a mark need describe only one significant quality or characteristic of the relevant goods or services in order to be held merely descriptive. In re Gyulay, 3 USPQ2d at 1010.

At the outset, we note that both the Examining Attorney and the applicant have considered the issue of mere descriptiveness in relationship to applicant's identification of services (set forth earlier in this opinion) which, as previously noted, the Examining Attorney contends is defective because it is indefinite. We too will base our analysis of the Section 2(e)(1) refusal by considering applicant's mark in relation to the services set forth in applicant's application. To cut to the quick, we find that the evidence of record overwhelmingly demonstrates that applicant's mark THE CLASSIFIED CHANNEL is, at a minimum, extremely highly descriptive of at least three of applicant's services, namely, television broadcasting services, advertising services and Internet advertising services. It must be remembered that in order to be held merely descriptive or indeed even generic, a word or term need only describe or name one of applicant's services. In re Analog Devices, Inc., 6 USPQ2d 1808, 1809

(TTAB 1988) aff'd mem. 871 F.2d 1097, 10 USPQ2d 1879 (Fed. Cir. 1989).

The Examining Attorney has made of record excerpts from numerous newspaper and magazine articles where the term "classified channel(s)" has been used by third parties in a descriptive and indeed generic manner as applied to certain types of television broadcasting services, advertising services and Internet advertising services, three of the services set forth in applicant's recitation of services. An article appearing in the August 21, 2003 edition of the Florida Times-Union (Jacksonville) describes a new web site "that makes it easier for Internet users to navigate and is more visually appealing. A new home page, as well as updated news and classified channels, are among the new features." Another article appearing in the September 21, 2000 edition of the Times-Picayune (New Orleans) describes the efforts of a couple in searching for their lost dog in the following manner: "Although I faithfully continued to place food in her bowl hoping she would return soon, she didn't. We tried everything to find Abby. We made flyers, we advertised on the cable classified channel and we called the animal shelter to see if someone had turned her in." Yet another article appearing in the September 25, 1997 edition of the Sarasota

Herald-Tribune (Florida) describes enhancements made to a local cable television service: "The upgrade also will include other stations. Other basic channels include the preview guide, the classified channel, WFCT, Q2 -- a shopping channel, CSPAN 2 ..." Another article appearing in the March 2, 1992 edition of the Capital District Business Review describes certain improvements made to the "Troy Cable Television Station" as follows: "The station has a special channel set aside for the video classified ads. A viewer can switch to the classified channel, and watch the various products and services offered."

The vast array of newspaper and magazine articles using the term "classified channel(s)" in a generic manner goes on and on. For example, an article appearing in the June 19, 1991 edition of The Atlanta Journal and Constitution describes a cable channel in the greater Atlanta area that "will kick off with 350,000 subscribers, making it the largest classified channel in the country." Another article appearing in the February 12, 1991 edition of the Los Angeles Times contains the following two sentences: "Photoadvertising debuted in 1988 on Media General Cable in Fairfax, Va. It worked so well that the system now offers three full-time classified channels." There are numerous additional magazine and newspaper

articles made of record which abundantly demonstrate that as applied to certain types of television broadcasting services, advertising services and Internet advertising services, the term "classified channel(s)" is generic.

Of course, it need hardly be said that the addition of the word "the" to the generic term "classified channel" does not cause applicant's mark in its entirety to be other than generic. This Board has previously held that the purported mark THE WEATHER CHANNEL was merely descriptive of television broadcasting services despite that fact that the record revealed that no third parties had used the term "The Weather Channel" (emphasis added). In so doing, this Board noted as follows: "Nor does the use of the word 'the' add any source identifying distinctiveness to the term sought to be registered." In re Weather Channel, Inc., 229 USPQ 854, 856 (TTAB 1985) citing cases. Likewise, this Board held that the purported mark ALL NEWS CHANNEL for "television broadcasting services" and "television production services" was not just merely descriptive, but was indeed generic. In re Conus Communication Co., 23 USPQ2d 1717 (TTAB 1992).

Given the fact that it so abundantly clear that the purported mark THE CLASSIFIED CHANNEL is, at an absolute minimum, extremely highly descriptive of at least three of

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applicant's services, we affirm the refusal to register pursuant to Section 2(e)(1) of the Trademark Act, and we elect not to consider whether applicant's description of services is indefinite.

Decision: The refusal to register is affirmed.